



## Ontario: Annual Statutes

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1984

# c 56 Theatres Amendment Act, 1984

Ontario

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### Bibliographic Citation

*Theatres Amendment Act, 1984*, SO 1984, c 56

### Repository Citation

Ontario (1984) "c 56 Theatres Amendment Act, 1984," *Ontario: Annual Statutes*: Vol. 1984, Article 58.

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## CHAPTER 56

### An Act to amend the Theatres Act

*Assented to December 14th, 1984*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Clause 1 (a) of the *Theatres Act*, being chapter 498 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

(a) “Board” means the Ontario Film Review Board referred to in section 3.

**(2) Section 1 of the said Act is amended by adding thereto the following clause:**

(ba) “distribute” means distribute for direct or indirect gain and includes rent, lease and sell.

**(3) Clause 1 (f) of the said Act is repealed and the following substituted therefor:**

(f) “film exchange” means the business of distributing film,

**(4) Clause 1 (n) of the said Act is repealed.**

**2. Section 2 of the said Act is amended by adding thereto the following subsections:**

(3) The Director shall provide the Minister with an annual report on the administration of this Act and the regulations. Annual report

(4) Upon receiving a report under subsection (3), the Minister shall forthwith lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Idem

**3. Section 3 of the said Act is repealed and the following substituted therefor:**

Board

**3.—**(1) The board known as the Board of Censors is continued and shall be known as the Ontario Film Review Board and shall consist of the Director who shall be chairman of the Board and such other persons as the Lieutenant Governor in Council may appoint.

Vice-  
chairman

(2) The Lieutenant Governor in Council may designate one or more of the members of the Board as a vice-chairman.

Remuneration

(3) The members of the Board shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

Chairman

(4) The chairman of the Board shall have general supervision and direction over the conduct of the affairs of the Board.

Powers

(5) The Board has power,

- (a) subject to the regulations, to approve, prohibit and regulate the exhibition and distribution of film in Ontario;
- (b) when authorized by the person submitting film for approval, to remove from the film any portion that it does not approve of for exhibition or distribution;
- (c) subject to the regulations, to approve, prohibit or regulate advertising in Ontario in connection with any film or the exhibition or distribution thereof;
- (d) to classify films in accordance with the classifications set out in subsection (7); and
- (e) to carry out its duties under this Act and the regulations.

Idem

(6) The Board may designate one or more of its members to exercise the powers of the Board under clause (5) (c).

Film  
classification

(7) Films may be classified in accordance with the following categories:

- 1. Family.
- 2. Parental guidance.
- 3. Adult accompaniment.
- 4. Restricted.

(8) For purposes of subsection (7), where a film is classified as, Idem

- (a) family, the film is one that the Board considers appropriate for viewing by a person of any age;
- (b) parental guidance, the film is one that the Board considers every parent should exercise discretion in permitting a child to view;
- (c) adult accompaniment, the film is one the Board considers the viewing of which should be restricted to persons fourteen years of age or older or to persons younger than fourteen years of age who are accompanied by an adult; or
- (d) restricted, the film is one the Board considers the viewing of which should be restricted to persons eighteen years of age or older.

(9) Part 1 of the *Statutory Powers Procedure Act* does not apply to decisions made by the Board.

Non-application of  
R.S.O. 1980,  
c. 484

**4. Section 4 of the said Act is repealed and the following substituted therefor:**

**4.—**(1) The Lieutenant Governor in Council may appoint inspectors to carry out such duties as may be assigned to them by this Act or the regulations.

Inspectors

(2) It is the duty of an inspector and the inspector has power,

Powers  
and duty

- (a) to inspect, at reasonable times, theatres, any other premises where film is exhibited and business premises occupied by film exchanges to ensure that the provisions of this Act and the regulations are complied with;
- (b) to supervise projectionist's examinations and tests;
- (c) by written order, to prohibit the use or exhibition of any film that the inspector believes, on reasonable and probable grounds, is not safe to use or exhibit;
- (d) by written order, to prohibit the use of a projector that the inspector believes, on reasonable and probable grounds, was operated contrary to this Act or the regulations;

- (e) subject to subsection (5), in the performance of a duty, to enter any theatre or other premises in which film is exhibited or that is occupied by a film exchange.

Order to  
hand over

(3) Where, on reasonable and probable grounds, an inspector believes that a projector was operated or a film or advertising was exhibited, used or offered for distribution contrary to this Act or the regulations, the inspector may, by written order, direct that the projector, film or advertising, as the case may be, be turned over to the inspector.

Order to  
retain

(4) Where an order under subsection (3) is not complied with immediately, the inspector may, by written order, direct that the subject-matter of the order not be removed from the premises, destroyed or altered in any manner for a period of ten days except under lawful authority.

Power  
to enter  
restricted

(5) The powers set out in clauses (2) (a) and (e) do not permit an inspector,

- (a) to enter any place actually being used as a dwelling without the consent of the occupier; or
- (b) to use force in the exercise of a power of entry and inspection,

except under the authority of a warrant.

Warrant

(6) Where, upon an *ex parte* application by an inspector, a justice of the peace is satisfied by information, under oath,

- (a) that there is reasonable ground for believing that it is necessary to enter a particular building or premises for the administration of this Act or the regulations and,
  - (i) a reasonable, unsuccessful effort to effect entry without the use of force has been made, or
  - (ii) there is reasonable ground for belief that entry would be denied without a warrant; or
- (b) that an order issued under subsection (3) has not been complied with,

the justice of the peace may issue a warrant authorizing an inspector, with such police officers as are required to assist, to enter the building premises and to take any action that an

inspector may take under this Act and to remove and hold any projector that the inspector believes, on reasonable and probable grounds, was operated or any film or advertising that the inspector believes, on reasonable or probable grounds, was exhibited, used or offered for distribution contrary to this Act or the regulations, and to use such force as may be necessary.

(7) A justice of the peace shall not issue a warrant under subsection (6) to enter any place actually being used as a dwelling unless the inspector satisfies the justice of the peace, under oath, that he has reasonable grounds to believe the place is used as a business premises occupied by a film exchange. Idem

(8) An entry under a warrant may be made only between sunrise and sunset unless the warrant specifies otherwise. Limitation

(9) The Deputy Minister of Consumer and Commercial Relations shall issue a certificate of appointment to every inspector appointed under this Act which certificate shall contain a photograph of the inspector. Identification

(10) Every inspector, while exercising any powers or performing any duties under this Act shall produce a certificate of appointment upon request. Idem

**5. Section 6 of the said Act is repealed and the following substituted therefor:**

**6.—**(1) Non-compliance with an order issued under this Act directed to a licensee under this Act or contravention of a term or condition of a licence is grounds for which the Director may, after a hearing, refuse to renew or suspend or cancel the licence of the person to whom the order was directed or, in the case of a contravention of a term or condition, the licensee. Cancellation, etc., of licence for non-compliance with order or contravention of term

(2) Any person to whom an inspector has issued an order or who claims an interest in any projector, film or advertising turned over to or removed by an inspector may, within ten days after the issue of the order or after removal, apply to the Director for a review of the order or release of the projector, film or advertising and the Director may, after a hearing, confirm, vary or annul the order of the inspector or direct the release of the projector, film or advertising. Review of inspector's order

(3) Where a projector, film or advertising has been turned over to or removed by an inspector, Forfeiture of projector, etc.

- (a) if no application for a review of the removal is made to the Director within ten days after the removal; or
- (b) if the Director finds after a hearing that the projector, film or advertising was installed, used, distributed, offered for distribution or exhibited in contravention of this Act or the regulations,

the Director may, subject to appeal, direct that the projector, film or advertising is forfeited to the Crown.

**6. Sections 10 and 11 of the said Act are repealed and the following substituted therefor:**

Classification  
of theatres

**10. Theatres are classified and defined as follows:**

- 1. Class A theatre means premises in which standard film is used to exhibit moving pictures.
- 2. Class B theatre means premises used primarily for the exhibition of film other than standard film.
- 3. Class C theatre means any premises in which film is exhibited and viewed by the public from vehicles and commonly known as a drive-in theatre.

Theatre  
licence  
required

**11. No person shall use any premises as a Class A, B or C theatre without an appropriate licence therefor under this Act.**

**7.—(1) Subsection 12 (1) of the said Act is amended by inserting after “entitled” in the second line “upon submitting a completed application and”.**

**(2) Subsection 12 (2) of the said Act is amended by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding thereto the following clause:**

- (c) the applicant is a corporation and the past conduct of an officer, director or shareholder affords reasonable grounds for belief that the applicant will not comply with this Act and the regulations in operating the theatre.

**8. Section 16 of the said Act is amended by adding thereto the following subsection:**

Application  
of  
R.S.O. 1980,  
c. 302

**(2) Subsection (1) does not apply in respect of the licensing of a theatre under section 222 of the *Municipal Act*.**

**9. Section 18 of the said Act is repealed.**

**10. Subsections 20 (2), (3), (4) and (5) of the said Act are repealed and the following substituted therefor:**

(2) No film shall be exhibited in a theatre where a person under twelve years of age not accompanied by a person sixteen years of age or older is permitted to attend unless a person who is eighteen years of age or older dressed in a readily identifiable uniform is on duty in the theatre.

Uniformed  
attendant

(3) No person shall,

- (a) sell to a person apparently under fourteen years of age a ticket of admission to;
- (b) grant to a person apparently under fourteen years of age admission into; or
- (c) knowingly permit a person apparently under fourteen years of age to remain in,

Persons  
under 14  
attending  
adult  
accompani-  
ment film  
exhibition

a theatre or other premises where a film classified as adult accompaniment is about to be or is being exhibited unless the person apparently under fourteen years of age is accompanied by a person apparently eighteen years or more of age.

(4) No person shall,

- (a) sell to a person apparently under eighteen years of age a ticket of admission to;
- (b) grant to a person apparently under eighteen years of age admission into; or
- (c) knowingly permit a person apparently under eighteen years of age to remain in,

Persons  
under 18  
years  
prohibited  
from viewing  
restricted  
film  
exhibition

a theatre or other premises where a film classified as restricted is about to be or is being exhibited.

(5) Subsections (1), (3) and (4) do not apply where the person selling the ticket of admission or permitting admission to or remaining in the theatre or other premises has received satisfactory evidence that the person in question is the required age or older.

Proof  
of age

(6) In any prosecution for a contravention of subsection (1), (3) or (4), the court shall determine from the appearance of any person and other relevant circumstances whether he is

Prosecution  
under  
subs. (1), (3)  
or (4)



apparently under the age referred to in subsection (1), (3) or (4).

**11. Section 23 of the said Act is repealed.**

**12. Section 25 of the said Act is repealed and the following substituted therefor:**

Operation  
of projector  
without  
licence

**25. No person shall,**

- (a) operate a projector designed for the use of standard film; or
- (b) operate a projector in a Class A or C theatre,

unless the person is licensed as a projectionist under this Act and no licensee, manager or person in charge of a Class A or C theatre shall permit any person to operate a projector in the theatre unless the person is licensed as a projectionist under this Act.

**13. Section 35 and the heading immediately preceding and section 36 of the said Act are repealed and the following substituted therefor:**

APPROVAL OF FILMS AND ADVERTISING

Approval  
of film

**35.—(1)** Before the exhibition or distribution in Ontario of a film, an application for approval to exhibit or distribute and for classification of the film shall be made to the Board.

Idem

(2) After viewing a film, the Board, in accordance with the criteria prescribed by the regulations, may refuse to approve the film for exhibition or distribution in Ontario.

Conditional

(3) The Board, having regard to the criteria prescribed by the regulations, may make an approval conditional upon the film being exhibited in designated locations and on specified dates only.

Quorum

(4) Except as otherwise provided, for the purpose of exercising a power under clause 3 (5) (a) or (d), three members of the Board constitute a quorum.

Review of  
decision

(5) Where a film has been submitted for approval and classification under subsection (1), the person submitting the film, on payment of the prescribed fee, may appeal the Board's decision by submitting the film for reconsideration by a panel of the Board and that panel, after viewing the film, shall make a decision on its approval and classification.

(6) A decision by a panel of the Board under subsection (5) as to classification is final. Decision final

(7) The panel referred to in subsection (5) shall be composed of at least five members, none of whom had participated in a previous decision on the film. Panel

(8) A person who has appealed under subsection (5) may appeal the Board's decision as to approval to the Divisional Court in accordance with the rules of court and, where there is an appeal, the Minister is entitled to be heard. Appeal

(9) An appeal under subsection (8) may be made on question of law or fact or both and the Court may affirm or may rescind the decision of the Board and may direct the Board to take any action that the Board may take and as the Court considers proper. Powers of Court on appeal

**35a.**—(1) Where the chairman of the Board is of the opinion that the criteria prescribed by regulation respecting subject-matter or content in films have changed since a film was originally approved and classified and that the film may not be entitled to the approval or classification determined at the time of the original decision, the chairman may require that the film be submitted for reconsideration by the Board. Reconsideration of film by Board

(2) Where a film is submitted for reconsideration under subsection (1), the provisions of section 35 apply with necessary modifications except that no fees shall be charged. Idem

**36.** Where a film is approved by the Board, the approval shall be indicated in the manner prescribed by the regulations. Indication of approval

**14. Section 37 of the said Act is repealed and the following substituted therefor:**

**37.** An application under section 35 shall be made in the manner prescribed by the regulations and be accompanied by the prescribed fee. Submission for approval

**15. Sections 38, 39 and 40 of the said Act are repealed and the following substituted therefor:**

**38.**—(1) No person shall exhibit, distribute or offer to distribute or cause to be exhibited, distributed or offered for distribution in Ontario any film that has not been approved by the Board. Exhibition of film

Idem

(2) No person shall exhibit or cause to be exhibited in Ontario any film that has been approved by the Board subject to any conditions except in accordance with those conditions.

Alteration  
of film

**39.** No person shall alter or cause to be altered, for the purpose of exhibition or distribution in Ontario, any film from its state as approved by the Board.

Approval of  
advertising

**40.—**(1) No person shall publicly display any advertising matter in connection with a film or the exhibition or distribution thereof, unless a sample of the advertising matter has been approved by the Board.

Samples to  
be  
submitted to  
Board

(2) Before advertising matter in connection with a film or the exhibition or distribution thereof is publicly displayed in Ontario, a sample thereof, in duplicate, accompanied by the prescribed fee shall be submitted to the Board for approval.

Board may  
refuse to  
approve

(3) The Board, in accordance with the criteria prescribed by the regulations, may refuse to approve advertising matter submitted under subsection (2).

Second  
decision

(4) Where the Board has refused to approve advertising matter, the person submitting the advertising matter may require the Board to reconsider its decision and a panel of the Board composed of at least five persons, none of whom had participated in the original decision, shall consider the advertising matter and either confirm the original decision or substitute its own decision therefor.

Decision  
final

(5) A decision of the Board under subsection (4) is final.

Stamp of  
approval

(6) Where a sample of advertising matter is approved by the Board, it shall be so stamped and one sample shall be returned to the person who submitted it.

**16.** Subsection 42 (2) of the said Act is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding thereto the following clause:

- (c) where the applicant is a corporation and the past conduct of an officer, director or shareholder affords reasonable grounds for belief that the applicant will not comply with this Act and the regulations in carrying on the business of a film exchange.

**17.** The said Act is amended by adding thereto the following section:

**47a.**—(1) No film exchange or agent or employee thereof shall distribute a film classified as restricted to any person apparently under the age of eighteen years. Distribution of restricted film

(2) Subsection (1) does not apply where the agent or employee has received satisfactory evidence that the person in question is eighteen years of age or more. Proof of age

(3) In any prosecution for a contravention of subsection (1), the Court shall determine from the appearance of any person and other relevant circumstances whether he is apparently under eighteen years of age. Prosecution under subs. (1)

**18. Sections 50, 51 and 52 of the said Act are repealed.**

**19. Subsection 53 (1) of the said Act is repealed and the following substituted therefor:**

(1) No person shall operate or permit the operation of projection equipment to exhibit film in premises that are not licensed as a theatre without a licence for the equipment from the Director. Licence to operate projector

**20. Subsection 55 (1) of the said Act is repealed and the following substituted therefor:**

(1) The Director may, after a hearing, refuse to issue a licence under section 53 or 54 where, Refusal to issue

- (a) the applicant has previously been issued a licence of the type applied for if the licence was cancelled and the grounds for cancellation still exist; or
- (b) the applicant is a corporation and the past conduct of an officer, director or shareholder affords reasonable grounds for belief that the applicant will not comply with this Act and the regulations concerning the operating of projectors or exhibiting films.

**21. Section 62 of the said Act is repealed and the following substituted therefor:**

**62. A statement as to,**

Certificate by Director

- (a) the licensing or non-licensing of any person;
- (b) the classification of any film;
- (c) the approval or non-approval of any film; or

(d) the approval or non-approval of any advertising,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

**22. Paragraphs 9, 15, 16, 17, 23, 24, 25, 28 and 30 of subsection 63 (1) of the said Act are repealed and the following substituted therefor:**

9. prohibiting and regulating the use, distribution or exhibition of film or any type or class thereof;

. . . . .

15. prescribing building plans, documents and other information to be submitted to the Director with an application for a licence;

16. requiring signs to be displayed in respect of the exhibition of film classified by the Board and prescribing types of signs and the manner in which the signs shall be displayed;

17. prescribing the manner in which advertising matter in connection with any film classified by the Board or the exhibition or distribution thereof shall indicate that the film has been so classified;

17a. prescribing the manner that approval and classification of films shall be indicated;

. . . . .

19a. prescribing terms and conditions to which theatre licences and film exchange licences or any classes thereof are subject;

. . . . .

23. prescribing the fees to be paid for the classification or approval of films by the Board;

24. prescribing the manner of application and the material to be submitted to the Board for an approval under section 35;

24a. prescribing the fees to be paid for a review under section 35;

25. prescribing the fees to be paid with the submission of advertising matter under section 40;

. . . . .

28. providing for the issue, expiry and renewal of licences under section 53 and prescribing fees therefor;

. . . . .

30. exempting any theatre, film exchange, projector, film or person or any class or type thereof from any provision of this Act or the regulations;

31. prescribing criteria on which the Board may exercise its powers under sections 3, 35 and 40 including prescribing the film or advertising content or subject-matter that the Board may refuse to approve;

32. prescribing procedures concerning matters before the Board.

**23.—(1) Subsection 222 (8) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by striking out “licensed under the *Theatres Act* or” in the third line.**

**(2) Clause 222 (9) (e) of the said Act is repealed and the following substituted therefor:**

- (e) “services” includes activities, facilities, performances, exhibitions, viewings and encounters but does not include the exhibition of film approved under the *Theatres Act*.

R.S.O. 1980,  
c. 498

**24. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.**

Commence-  
ment

**25. The short title of this Act is the *Theatres Amendment Act, 1984*.**

Short title

